

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 REVERIE AT MARCATO OWNERS
9 ASSOCIATION,

10 Plaintiff,

11 v.

12 VISION ONE LLC, et al.,

13 Defendants.

CASE NO. C12-6035 BHS

ORDER GRANTING
DEFENDANT'S MOTION TO
DISMISS AND PLAINTIFF'S
MOTION TO AMEND

14 This matter comes before the Court on Uponor, Inc.'s ("Uponor") motion to
15 dismiss (Dkt. 94) and Plaintiff Reverie at Marcato Owners' Association's ("Reverie")
16 motion to amend (Dkt. 98).

17 On July 26, 2012, Reverie filed a class action complaint against numerous
18 defendants, including Uponor, Wirsbo Company, and Uponor Wirsbo, Inc. Dkt. 1, Exh.

19 1. On December 6, 2012, Uponor removed the matter to this Court. Dkt. 1.

20 On December 16, 2013, Uponor filed a motion to dismiss Wirsbo Company and
21 Uponor Wirsbo, Inc. arguing that these companies are merely predecessor names for
22

1 Uponor. Dkt. 94, ¶ 4. On January 6, 2014, Reverie responded and filed a motion to
2 amend its complaint. Dkts. 97 & 98. On January 10, 2014, Uponor replied. Dkt. 100.

3 In the event a court finds that dismissal is warranted, the court should grant the
4 plaintiff leave to amend unless amendment would be futile. *Eminence Capital, LLC v.*
5 *Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003).

6 In this case, the Court grants both motions. Uponor has shown that there is no
7 need to maintain former business names as separate defendants. Reverie has shown that
8 leave to amend is warranted to name the proper defendant. Therefore, the Court
9 **GRANTS** Uponor's motion to dismiss and Reverie's motion to amend. Reverie shall file
10 the amended complaint as a separate docket entry on the electronic docket.

11 Finally, the Court declines to enter an order of judgment that Uponor is liable for
12 the actions of the dismissed defendants. The request is procedurally improper because it
13 was included in a response brief, and the request is substantively improper because
14 Reverie has failed to meet its burden of proof on this issue.

15 **IT IS SO ORDERED.**

16 Dated this 23rd day of January, 2014.

17
18
19
20
21
22



20
21
22
BENJAMIN H. SETTLE
United States District Judge